



INCLUSIONARY ZONING ANNUAL REPORT FOR FISCAL YEAR 2020



DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT
POLLY DONALDSON, DIRECTOR



GOVERNMENT OF THE
DISTRICT OF COLUMBIA
MURIEL BOWSER, MAYOR

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*Image 1 - Kitchen area for 1BR apartment, Avec On H Street, 901 H Street NE (top); rooftop area (right).
Cover - Exterior, The Batley, 1270 4th Street NE.*



A Letter from Director Polly Donaldson

Greetings District residents!

The Department of Housing and Community Development (DHCD) is excited to manage one of the most robust set of tools to produce and preserve affordable housing units in the country. Our inclusionary zoning (IZ) program is an extremely valuable tool that helps produce new affordable housing units for District residents.

Although COVID-19 has been a disruptive influence for most this year, the IZ program has set a new benchmark by producing 235 affordable housing units for Fiscal Year 2020 (FY20); the most units since the program began in August 2009. To date, more than 1,200 IZ units have been produced.

Because the program requires new development projects to set-aside eight (8) to 10 percent of the residential floor area for affordable units, we estimate between 2,300 to 2,900 housing units were produced in the District for FY20. The production of these units helps us get closer to Mayor Bowser's goal of 36,000 new housing units by 2025 of which 12,000 units will be affordable.

An inherent benefit of IZ units is that they are produced throughout the District and are not limited to specific neighborhoods, wards or quadrants. Equitable distribution of affordable housing is a key goal outlined in the Mayor's *Housing Equity Report*. IZ units move us toward this goal by offering a wide range of affordable housing opportunities all over the city.

During the COVID-19 pandemic, we have learned that more than ever affordable housing is a critical component to the wellbeing of residents in the District. Although we have had unmatched success this year for the IZ program, the demand for more affordable housing will certainly increase once the public health emergency has been lifted.

DHCD is prepared to use every tool available to meet our goals for producing more affordable housing opportunities all over the city.

Sincerely,

Polly Donaldson
Director

Review of the Inclusionary Zoning Program in Fiscal Year 2020

The Inclusionary Zoning (IZ)¹ program is one of many tools the District of Columbia uses to produce affordable housing. It requires most new housing developments (or expansions) in the District to include affordable units². IZ creates both rental and sale units.

The goals of the IZ program are to:

- create mixed income neighborhoods,
- produce affordable housing for a diverse labor force,
- seek equitable growth of new residents, and
- increase homeownership opportunities for moderate income households.

The Fiscal Year (FY) 2020³ IZ Annual Report from the Department of Housing and Community Development (DHCD) marks the conclusion of the eleventh complete fiscal year since the program began in August 2009. This report provides an analysis of the IZ program from 2009 to September 30, 2020 and was drafted in coordination with the DC Office of Planning (OP) and DC Department of Consumer and Regulatory Affairs (DCRA).

The IZ program produced 235 IZ units⁴ in FY2020, which is the most ever produced in a fiscal year and significantly higher than the level of production seen in the four prior fiscal years (174 units in FY2019⁵, 198 units in FY2018, 192 units in FY2017 and 191 units in FY2016). This is a 35% increase in units produced in FY2020 over FY2019 and brings the total number of IZ units produced by the end of FY2020 to 1,201. Figure 1 (next page) shows the number of IZ units and IZ developments produced each fiscal year since the inception of the IZ program. The number of IZ units and developments has generally increased since the program began.

¹ The IZ program was developed based on the Inclusionary Zoning Implementation Amendment Act of 2006 (D.C. Law 16-275 (effective March 14, 2007), D.C. Official Code §6-1041.07) (IZ Act) and Mayor's Order 2008-59, dated April 2, 2008. These documents mandated the adoption of a new Chapter 22 entitled "Inclusionary Zoning Implementation" of Title 14 (Housing) of the District of Columbia Municipal Regulations (IZ Regulations). The Final Rulemaking for implementation was published in the *D. C. Register* on December 11, 2009. The current IZ administrative regulations were published as Final Rulemaking in the *D.C. Register* on December 29, 2017 and may be found at <https://www.dcregs.dc.gov/Common/NoticeDetail.aspx?NoticeId=NOO65229>.

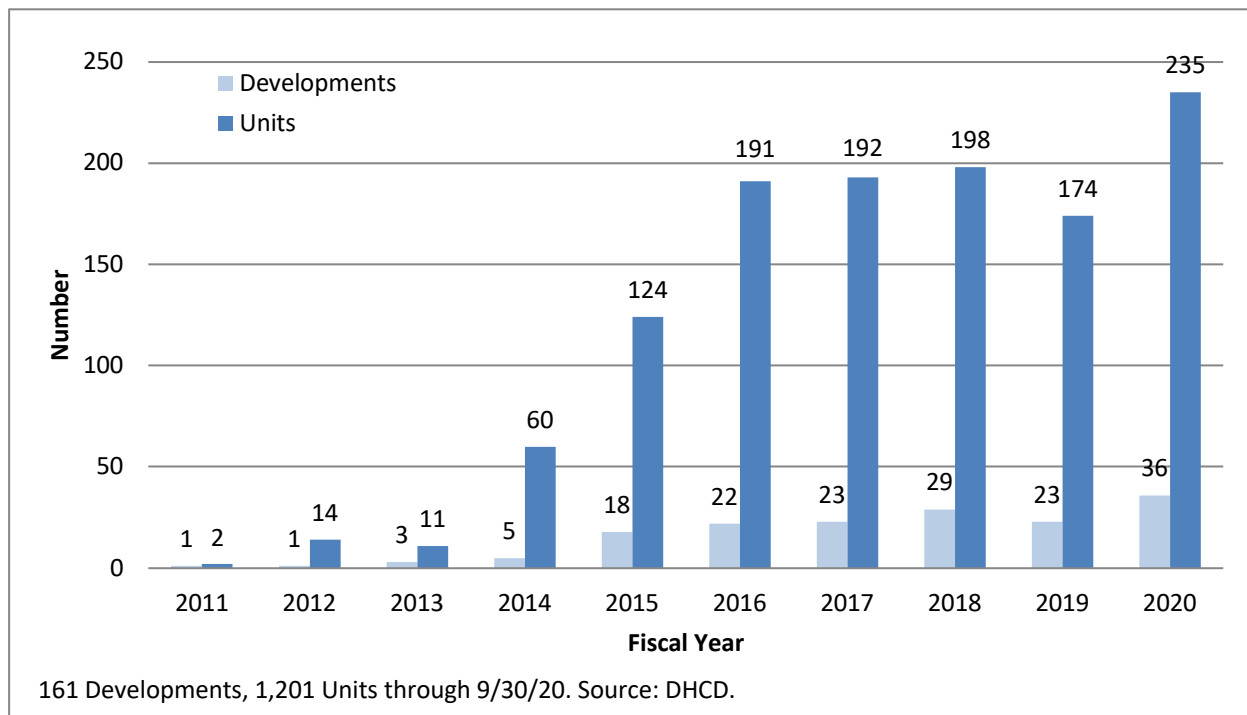
² Under the IZ regulations, most new developments with 10 or more dwelling units or proposing new gross floor area that would result in 10 or more dwelling units must include a percentage of affordable units (approximately 8 percent to 10 percent of the gross residential floor area) in exchange for a density bonus (up to 20 percent gross floor area) beyond what is allowed under existing zoning regulations.

³ The 2020 fiscal year was October 1, 2019 through September 30, 2020.

⁴ The tabulation of IZ units produced annually is based on the Notice of Availability (NOA) issue date submitted by the developer to DHCD. The NOA notifies DHCD when IZ units are ready for occupancy. The production numbers provided throughout this report do not include financially subsidized affordable housing developments that are exempt from IZ administrative and reporting rules. Title 11, Subtitle C, Section 1001.6(a) of the zoning code exempts developments receiving financing through the federal government, DHCD, the District of Columbia Housing Finance Agency (DCHFA), or the District of Columbia Housing Authority (DCHA) from the IZ administrative process, including IZ reporting requirements, provided they still set aside at least the IZ equivalent number of units that would stay affordable after the subsidy controls expire. These developments are eligible to receive bonus density from the IZ program enabling them to build more affordable units.

⁵ The FY2019 total was reported as 196 in last year's report. However, some of the NOAs received were submitted prematurely, later moving to 22 of those units spanning 3 developments to FY2020.

Figure 1. Inclusionary Developments and Units Produced by Fiscal Year (2011-2020)



In 2016, new zoning regulations became effective⁶ that allowed the use of habitable penthouse space for the first time in the District. Previously, penthouse space could only be used for mechanical purposes. As part of this change, regulations specified that an area equal to a percentage of the square footage of habitable penthouse space in residential buildings must be set aside as IZ or payment may be made to the Housing Production Trust Fund (HPTF). Of the 104 developments with habitable penthouse space that received approved Certificates of Inclusionary Zoning Compliance (CIZCs) from 2016 through the end of FY2020, 65 developments opted for 50% median family income (MFI)⁷ square-footage in-building while the remaining 39 developments made HPTF payments instead. Approximately 7,788 square feet of IZ housing became available for occupancy in FY2020 because of habitable penthouse space construction and while this is a relatively small number it equates to approximately 10-12 additional affordable units.⁸ In addition to the 39 residential projects that made optional HPTF payments, non-residential buildings with habitable penthouse space are required to make payment to the HPTF. During FY2020, \$5,710,473 was collected from both residential and non-residential properties, for a total of \$16,135,171 since 2016.⁹

⁶ Subtitle C, Chapter 15 of the Zoning Regulations of 2016 (ZR16) became effective on September 6, 2016, and supersedes the previous version, 1958 Regulations.

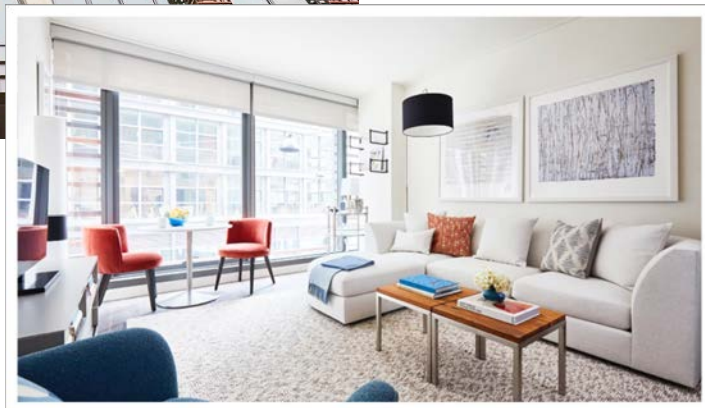
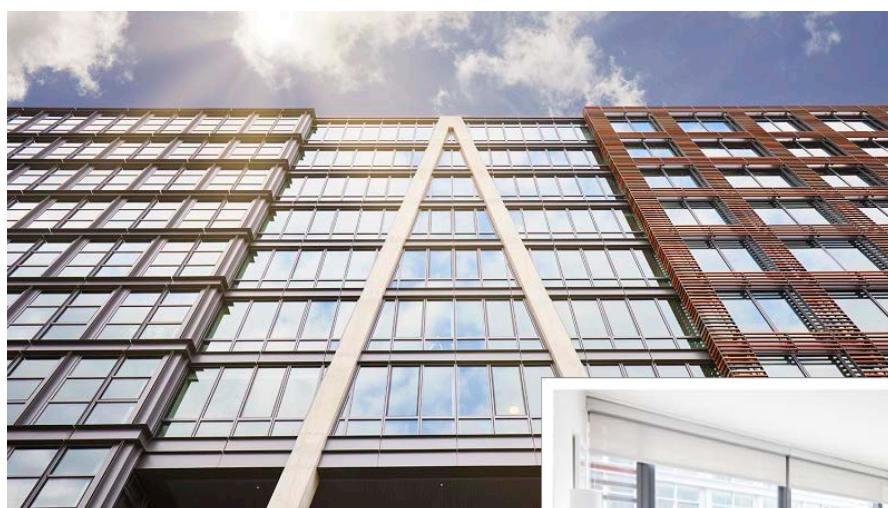
⁷ In FY2020, MFI for the Washington, D.C. metropolitan statistical area, as published annually by the U.S. Department of Housing and Urban Development (HUD), for a family of four was \$126,000, and is adjusted for household size. (<https://www.huduser.gov/portal/datasets/il.html>). MFI was previously referred to as Area Median Income or AMI.

⁸ This figure is reported as square footage versus number of units created, since some developers choose to allocate total IZ square footage generated as a result of habitable penthouse space construction across multiple IZ units. However, all of these units must be set aside as 50% MFI units, as required by the regulations. The square footage is calculated using any first NOAs received in the fiscal year.

⁹ If a payment is made, the payment amount is calculated by DCRA and is based on the square footage of the habitable penthouse space, assessed value of the property, square footage of the property, and permitted floor area ratio. At least one half of the amount due must be paid before issuance of the building permit and the balance is due before issuance of the certificate of occupancy.

The 2016 zoning regulations also modified the requirements to allow developments not otherwise subject to IZ to opt in and take advantage of the bonus density IZ affords¹⁰. In FY2020, 11 developments opted into IZ, resulting in 12 additional IZ units under development. Since the regulations became effective, 27 developments have opted in adding 52 IZ units.

Figure 2 shows the total number of IZ units produced broken down by number of bedrooms: 27 percent are studios, 40 percent have one-bedroom, and 27 percent have two-bedrooms. As also seen in Figure 2, one-person households are the largest number of households registered for the IZ program (48 percent). One- and two-person households combined amount to 75 percent of all registrations. The current IZ regulations require a minimum of one person per bedroom.¹¹

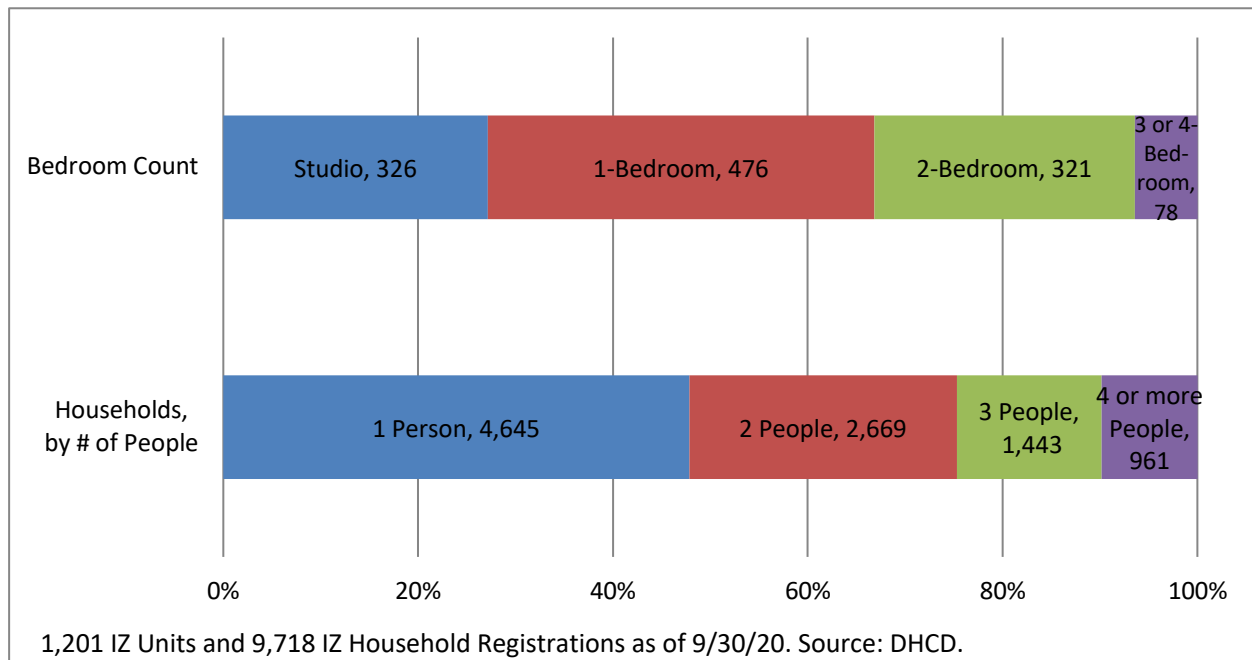


*Image 2 - Exterior, 901W, 901 W Street NW (top);
Interior, Living room area (right).*

¹⁰ See Title 11, Subtitle C, Section 1001.8 of the zoning code.

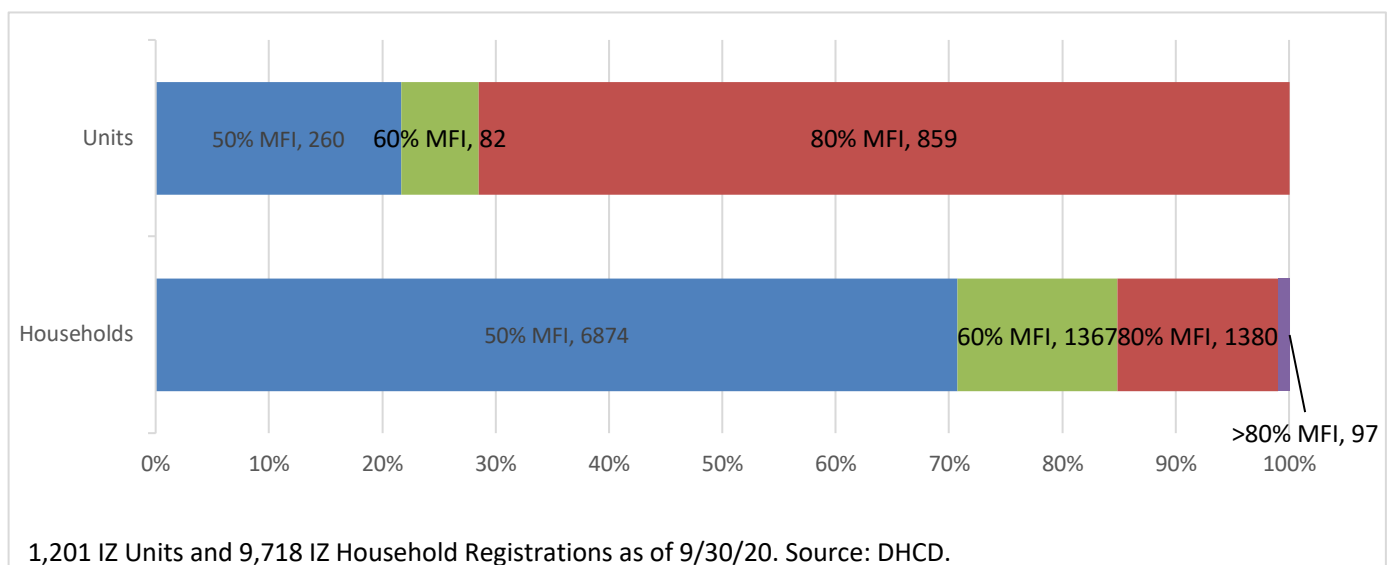
¹¹ The IZ Regulations outline the unit size eligibility based on the bedroom count of the unit and the number of people in a household. From the beginning of the program through August 31, 2017, the regulations provided both minimum and maximum household sizes for each unit size. Effective December 29, 2017, the revised IZ Regulations lowered the minimum occupancy for three- and four-bedroom units and did not provide maximums. Maximums after September 1, 2017 are property-specific and determined by local housing code as well as fair housing practices. However, the typical maximum formula used by rental properties is two people per bedroom plus one additional person. For example, in a two-bedroom unit, there could be two people for each bedroom (or four people) plus one additional person, for a total maximum of five people in the two-bedroom rental unit.

Figure 2. IZ Unit Types Produced (by Bedroom Count) vs. IZ Household Registrations (by Number of People in Each Household)



Almost 80% of the 235 IZ units produced in FY2020 (186 units or 79 percent) are for rent, while 49 units (or 21 percent) are for sale. This coincides with the preference of most households registering for the IZ program to rent (as opposed to purchase), as shown in Figure 3.

Figure 3. IZ Unit Tenures Produced (Rent or Sale) vs. IZ Household Preferences (Rent or Purchase)¹²



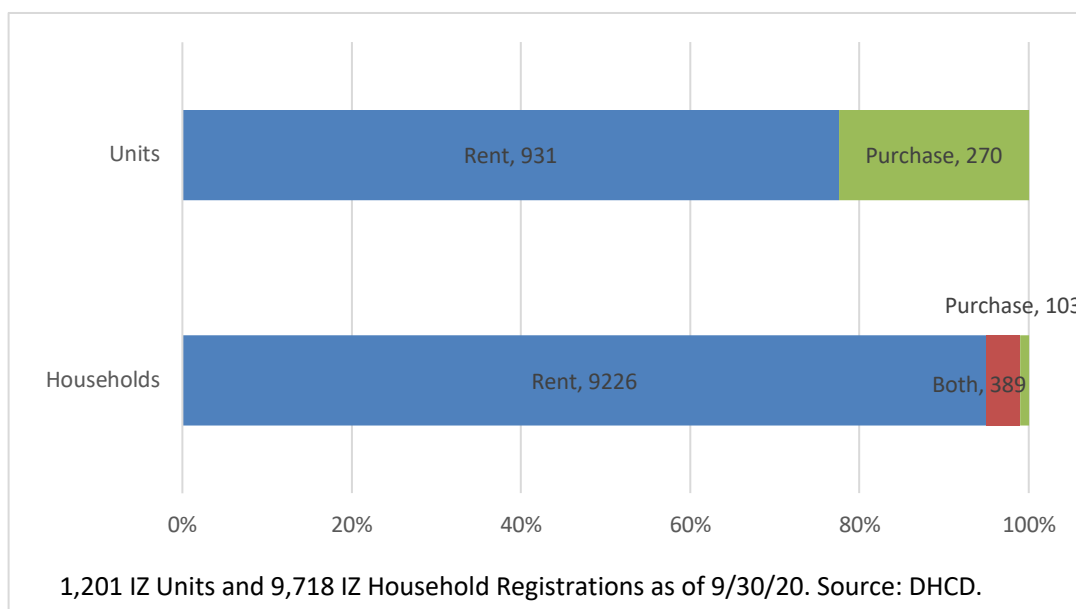
¹² Registered households are those listed in the DHCD IZ database as seeking an IZ unit. Reported numbers represent all units produced as of the end of FY2020. 931 (78%) of produced units are available as for rent; 270 (22%) are available for sale. 9,226 (95%) of registered households are only interested in renting, 389 (4%) are interested in either renting or purchasing, and 103 (1%) are only interested in purchasing.

During FY2020, IZ units were produced at three affordability levels—50 percent MFI (reserved for households earning up to 50 percent MFI), 60 percent MFI (reserved for households earning up to 60 percent MFI), and 80 percent MFI (reserved for households earning between 61 and 80 percent MFI). The 50 percent and 80 percent affordability levels were previously determined by the zoning district in which each development was located. Changes ordered by the Zoning Commission (ZC) (and effective June 5, 2017) shift the affordability levels of future units produced. Most new rental IZ units will be at 60 percent MFI and most new sale IZ units will be at 80 percent MFI. The only new 50% MFI units expected are due to habitable penthouse space or buildings that received approvals before the ZC changes became effective. Of the 235 units produced in FY2020:

- Fifty-six percent (131 units) were for 80 percent MFI households.
- Thirty-one percent (72 units) were for 60 percent MFI households.
- The remaining fourteen percent (32 units) were available for 50 percent MFI households.

While demand for affordable units exceeds supply at all income levels, as indicated by the counts provided in Figure 4, the imbalance is especially acute at the lowest income levels, as indicated by the shaded proportions in Figure 4.

Figure 4. IZ Unit Affordability Levels vs. Household Registration Income Levels¹³



¹³ In Figure 4, 60 percent MFI households are those who make over 50 percent MFI up to and including 60 percent of MFI, however, 60% MFI units are actually available to a broader range of households (those earning 60% MFI or below, which includes all 50% MFI households).



Image 3 – Living room area for 1BR apartment, Avec On H Street, 901 H Street NE.

FY2020 Annual Report (Legislative Reporting Requirement)

Each year, DHCD is required to report to the Council of the District of Columbia and the Zoning Commission on the impact of the IZ program by responding to 10 specific questions.¹⁴ In answering these questions, this report primarily discusses data from FY2020 but makes comparisons to the program’s production of units in previous years and projections for the program’s future growth.

The report concludes that the numbers of IZ units produced each fiscal year from FY2016 through FY2020 has generally increased compared to the previous years. This production should continue to hold steady with little indication of any adverse effect on the production of housing in the District.

1. **Number of IZ Units¹⁵ produced at each targeted income level:**

In FY2020, 235 IZ units were produced, of which 32 units (14 percent) were set aside for 50 percent MFI households, 72 units (31 percent) were designated for 60 percent MFI households, and 131 units (56 percent) were produced for 80 percent MFI households.

At the close of FY2020, 1,201 IZ units had been produced since program inception. Of these units, 260 (22 percent) were designated for 50 percent MFI households, 82 (7 percent) were set aside for 60 percent MFI households, and 859 (72 percent) were reserved for 80 percent MFI households.

¹⁴ DHCD is required to submit an annual report responding to 10 questions in accordance with §6-1041.09 of the IZ Act.

¹⁵ Unless otherwise specifically provided, the capitalized terms used in this report have the same meaning as defined in the IZ Regulations. Inclusionary Units are also referred to as IZ units in this report.

2. Number of IZ Units produced for sale:

In FY2020, 49 IZ units were produced for sale (21 percent of IZ units produced in FY2020). From program inception through the end of FY2020, a total of 270 for-sale units have been produced (22 percent of all IZ units produced).

3. Number of IZ Units produced for rent:

In FY2020, 186 units were produced for rent (79 percent of IZ units produced in FY2020). From program inception through the end of FY2020, a total of 931 rental units have been produced (78 percent of all IZ units produced).

4. The median income of the households that purchased¹⁶ or rented¹⁷ IZ Units:

In FY2020, the median income of households:

- renting IZ units was \$59,370; and
- purchasing IZ units was \$59,791.

5. The number of IZ Units purchased or rented by DHCD, other District agencies, or third parties for resale to eligible households:

No IZ units were purchased or rented by any District agency or third parties for resale in FY2020.

6. The value of subsidies, if any, contributed toward the rental or purchase of units by DHCD, other District agencies, or third parties for affordability to eligible households.

| Subsidies for IZ Purchases in FY2020 | | | |
|--|----------------------|---------------|--------------------------------|
| Subsidy Source | Number of Recipients | Total Subsidy | Average/Typical Subsidy Amount |
| Home Purchase Assistance Program (HPAP) | 17 | \$861,893 | \$50,700 |
| Employer Assisted Housing Program (EAHP) | 2 | \$40,000 | \$20,000 |
| Negotiated Employee Assistance Home Purchase Program (NEAHP) | 0 | \$0 | \$0 |
| DC Open Doors | 1 | \$8,400 | \$8,400 |
| CCAP Grant from Operation Hope | 1 | \$2,000 | \$2,000 |

¹⁶ IZ units closing in FY2020.

¹⁷ Both new and renewing IZ tenants with an income certification in FY2020.

In FY2020, 17 of 31 purchasers (55 percent) closing on an IZ unit received an HPAP subsidy. Of the 17 HPAP recipients, two also received funding from EAHP (including one that received HPAP, EAHP and DC Open Doors funding). One other HPAP recipient received a CCAP grant from Operation Hope. DHCD does not collect information regarding subsidies from other District agencies or third parties. This response does not include subsidies provided to developers by the Federal or District government which would result in the developments being IZ Exempt, as described in Footnote 4.

7. The average rent and sales prices for IZ Units based on number of bedrooms:

a. Average rent in FY2020:¹⁸

- Average rent price, studio: **\$1,362¹⁹**
- Average rent price, 1-bedroom: **\$1,359**
- Average rent price, 2-bedrooms: **\$1,593²⁰**
- Average rent price, 3-bedroom: **\$1,447**

b. Average for-sale price in FY2020:²¹

- Average for-sale price, studio: **Not applicable - no studio sales in FY2020**
- Average for-sale price, 1-bedroom: **\$189,538**
- Average for-sale price, 2-bedrooms: **\$214,000²²**
- Average for-sale price, 3-bedrooms: **\$168,661**

8. The number of waivers or alternative compliance requested and granted in FY2020:

The Zoning Commission and the Board of Zoning Adjustment (BZA) did not approve alternative compliance for any Planned Unit Development (PUD) in FY2020. The BZA did approve ten projects which voluntarily chose to opt in to IZ.

9. Analysis of how much bonus density was achieved for each development in which IZ units were required:

DCRA approved CIZCs for 38 developments in FY2020, of which 35 were multi-family developments and 3 were single family developments:

Multi-Family

- Three of the 35 multi-family developments were Planned Unit Developments (PUDs). All three received a land use change from Production, Distribution and Repair (PDR) uses, which prohibit residential, to mixed land uses that permit residential (bonus density was not calculated for these projects). Therefore, zero received density increases within land uses that permitted residential (and no average percentage increase in density was calculated).

¹⁸ Both new and renewing IZ tenants with an income certification in FY2020.

¹⁹ The average rent price of a studio is higher than the average rent of a 1-bedroom, because a higher number of studios with reported household incomes in FY2020 are set aside at 80% of MFI than 1-bedrooms.

²⁰ The average rent price of the 2-bedroom units is higher than that of the 3-bedroom units due to a greater proportion of 80% MFI unit 2-bedroom rentals reporting in FY20 (which inflates the average rental price).

²¹ IZ unit sales closing in FY20.

²² The average sale price of the 2-bedroom units is higher than that of the 3-bedroom units due to a greater proportion of 80% MFI 2-bedroom sales reporting in FY20 (which inflates the average sale price).

- The remaining 32 multi-family developments were either matter-of-right (meaning they complied with all zoning requirements), received some zoning variance from the DC BZA, or were subject to a ZC Design Review. Of these developments, 26 received bonus density averaging a 14% increase in density.

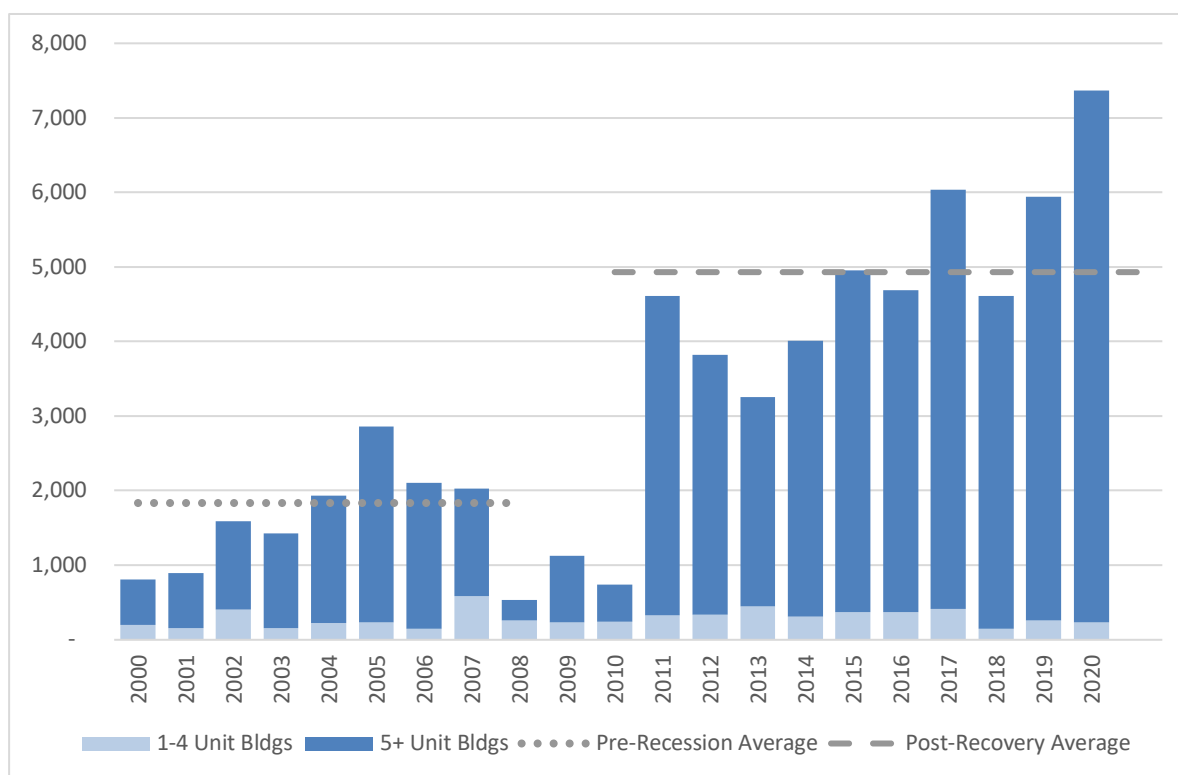
Single-Family

- There were three single-family developments. All three were in single-family zone categories which do not allow bonus density to be calculated.

10. An assessment of whether the IZ Program has had any adverse effect on the production of housing in the District:

There is no evidence that IZ requirements have had an adverse effect on the production of housing in the District. In FY2020, the number of new units added to the District's housing stock exceeded the post-recession average, according to US Census Bureau Building Permits Survey, as shown in Figure 5. This has been the case in a majority of years since the first IZ units were built in FY2011.

Figure 5: Number of Permitted New Residential Units



Source: US Census Building Permits Survey.

Since the construction of IZ units is tied to the pace of new development, this indicates that developers are not developing fewer buildings as a result of IZ Regulations.

IZ developments range in both size and location across the District, from small buildings without a mandatory requirement, but that choose to opt in to IZ, to large developments containing 59 IZ units and 622 total units. Map 1 (on the next page) shows that IZ units are located in developments constructed throughout the District and that the IZ program is not adversely affecting housing production in any one area of the city or District-wide.

Additionally, during FY2020, a development of over 400 residential units subject to a District land disposition and therefore required to provide affordable housing but exempt from IZ (see footnote 4), chose to hold IZ lotteries for the 100+ affordable units. This is an example of development choosing to participate in the IZ program, as opposed to the IZ program having an adverse effect on the production of housing in the District.



Image 4 - Living, kitchen and dining area, The Batley, 1270 4th Street NE.

Map 1. Filed Certificates of Inclusionary Zoning Compliance

